

WEALTH TAX REFERENCE No 25 of 1990

and

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- COMMISSIONER OF WEALTH-TAX

PRASANT J KINARIWALA

NOTICE SERVED for Respondent No. 1

and

Date of decision: 07/11/2001

"Whether, the assessee had in law validly transferred 40% of the share of the profit from out of his 15% share, right, title and interest in the profit and 19% in the losses of the partnership firm M/s.Ramniklal Jivanlal & Co., in

favour of Prashant J.Kinariwala Family Trust and as a result thereof the amount of Rs.3,32,524/cannot be included in the net wealth of the assessee ?"

2 Mr.B.B.Nayak appears on behalf of the revenue.
Though served none appears for the respondent-assessee.

3 Mr.Nayak fairly points out that the Tribunal has followed its own order for assessment year 1979-80 in assessee's own case and that reference against the said order of the Tribunal has already been decided. Our attention was invited to the decision of this Court rendered on 24/09/2001 in Wealth Tax Reference No. 39 of 1987 between the same parties. In the said decision it has been held that once the income producing apparatus or asset stood transferred by an overriding title created in favour of the beneficiaries of the trust there was no reason to hold that the said interest which was transferred would be wealth assessable in the hands of the assessee.

4 Following the aforesaid decision in assessee's own case we answer the question referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

5 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt